

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KEVIN MARTIN,

Plaintiff,

v.

CATHLEEN CAPRON, *et al.*,

Defendants.

CAUSE NO. 3:20-CV-28-DRL-MGG

OPINION AND ORDER

Kevin Martin, a prisoner without a lawyer, has filed an “[o]mnibus motion” (ECF 13) that this court construes as a motion to reconsider pursuant to Federal Rule of Civil Procedure 59. This case was initiated in the Southern District of Indiana, *Martin v. Capron*, 1:20-CV-041-SEB-DML (S.D. Ind. filed January 6, 2020), and then transferred here. The court recently dismissed this case as a malicious duplicate of a case already pending in this district. *Martin v. Capron*, No. 3:19-CV-1018-JD-MGG (N.D. Ind. filed November 6, 2019).

In response to the court’s order of dismissal and assessment of a filing fee, Mr. Martin contends that he did not intend to file the complaint in the Southern District of Indiana at all, that it was submitted electronically in error by law library staff, and that he “would never file two complaints in district court on the same issue.” ECF 13 at 3. His complaint was not dismissed because it was filed in the Southern District; it was dismissed because it was a duplicate of a pending case in this district and it should not have been filed at all. When a complaint is sent to the clerk’s office without a cause number on it, it triggers the opening of a new case.

Mr. Martin has a practice of attaching previously filed documents to amendments. *See Martin v. Capron*, 3:19-CV-1018-JD-MGG (N.D. Ind. amended complaint filed Jan. 21, 2020). This practice causes confusion and likely for the law library too – especially where those documents do not contain

cause numbers. It is both unnecessary and unhelpful to file copies of documents that have already been filed in that case. Nonetheless, it seems that Mr. Martin may have intended the complaint submitted electronically for filing in the Southern District of Indiana and later transferred here to be an attachment to his amendment submitted electronically for filing the same day in 3:19-CV-1018-JD-MGG, given that he later refiled his amended complaint via mail in that case together with a copy of the complaint. Giving Mr. Martin the benefit of the doubt, the court will vacate its orders assessing a fee and dismissing this case as a malicious duplicate and instead dismiss this case as inadvertently filed without assessing a fee.

For these reasons, the court:

- (1) GRANTS Kevin Martin's omnibus motion to the extent he is seeking reconsideration;
- (2) VACATES the order granting Kevin Martin leave to proceed *in forma pauperis* (ECF 6);
- (3) DIRECTS the clerk to send a copy of this order to each facility that was notified of the need to collect funds pursuant to the order granting leave to proceed *in forma pauperis* and refund any funds collected pursuant to that order to Kevin Martin;
- (4) VACATES the order dismissing this case as a malicious duplicate (ECF 7);
- (5) DISMISSES this case as inadvertently filed; and
- (6) DENIES Kevin Martin's motion to proceed *in forma pauperis* on appeal as MOOT.

SO ORDERED.

February 7, 2020

s/ *Damon R. Leichty*
Judge, United States District Court